

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0383P**

**Sales and Use Tax  
Calendar Years 1997, 1998, 1999**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is an Indiana corporation headquartered out of state. Taxpayer has an Indiana location that manufactures and markets its products.

Upon audit, it was discovered that the taxpayer failed to remit use tax on clearly taxable items such as office supplies, building maintenance items, capital assets, and other miscellaneous items. Taxpayer filed yearly ST 103's with "zero" tax due. Taxpayer was assessed a negligence penalty because it failed to have a use tax accrual system in place.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer was negligent in failing to remit use tax due.

Taxpayer failed to remit use tax on clearly taxable items and had no use tax accrual system in place.

Taxpayer states that it was the first time the company had been audited by Indiana and it had a turnover of corporate staff since 1995. In addition, the headquarters are out of state. Additional arguments

include that the bulk of the use tax is on trays that are exempt in Ohio. It has also started to correct its records for the year 2000. Due to the lack of awareness of Indiana use tax rules, not intentional disregard of such rules, it requests an abatement of penalties.

Taxpayer has not provided reasonable cause for failing to comply with Indiana Sales and Use Tax statutes. Failure to make itself aware of Indiana tax laws when doing business in the state is considered negligence.

### **FINDING**

Taxpayer's protest is denied.